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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,476	02/20/2004	Tetsuo Ikegame	01803D/LH	7472

1933 7590 06/26/2006

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
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NEW YORK, NY 10001-7708

EXAMINER

DINH, JACK

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/783,476	IKEGAME, TETSUO	
	Examiner	Art Unit	
	Jack Dinh	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 11-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/021,652.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0204</u> . | 6) <input checked="" type="checkbox"/> Other: <u>DETAILED ACTION</u> . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on 04/20/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the phrase "an effective portion of the coil" renders the claim indefinite. It is unclear of the portion of the coil being labeled as an effective portion. The rejection below is therefore based on the broadest possible interpretation.

Regarding claim 5, "the effective portion of the coil" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(e) as being unpatentable by Ikegame et al. (US Patent 6,373,811).

Regarding claim 1, Ikegame (figure 10B) is interpreted as disclosing an optical element drive mechanism comprising a movable portion **112e** including at least an optical element having a reflecting surface (not shown), a support member **112d** for supporting the movable portion rotatably with respect to a fixing member, and a drive mechanism including at least a coil **114g** and a magnet **112f** for driving the movable portion, wherein a pole surface of the magnet is substantially parallel to the reflecting surface of the movable portion (see figure).

Regarding claim 2, Ikegame (figure 10B) is interpreted as further disclosing that the magnetic field which is substantially in parallel with the reflecting surface of the movable portion functions on an effective portion of the coil.

Regarding claim 3, Ikegame (figure 10B) is interpreted as further disclosing a plurality of magnetic poles are provided on the pole surface of the magnet (see figure).

Regarding claim 4, Ikegame (figure 10B) is interpreted as further disclosing that the plurality of magnetic poles provided on the pole surface of the magnet are opposite to the movable portion (see figure).

Regarding claim 6, Ikegame (figure 10B) is interpreted as further disclosing that the coil **114g** is attached to the movable portion **112e**.

Regarding claim 7, Ikegame (figure 10B) is interpreted as further disclosing that the movable portion **112e** comprises the reflecting surface (not shown) on a first side and the coil **114g** on a second side.

Regarding claims 8-10, Ikegame is interpreted as disclosing all the claimed limitations except that the movable portion comprising an array of plurality of movable portions. However, positioning one movable portion next to another to create an array of plurality of movable portions to achieve multiple effect would have been an obvious modification to one of ordinary skill in the art. In addition, creating an integral support member for the plurality of movable portions and providing a magnet generated enough magnetic flux to drive the plurality of movable portions would have been obvious and within the knowledge of one skilled in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to provide an array of plurality of the movable portions for the purpose of accommodating larger switching system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Dinh whose telephone number is 571-272-2327. The examiner can normally be reached on M-F (9:30 AM - 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Dinh
06/19/06



Loha Ben
Primary Examiner